IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22618 of 2004

Between:

T.Suryanarayana S/o.Late Simmanna
No.753440036, National Industrial Security Academy CISF, Hakimpet, Hyderabad-78.

..... PETITIONER

AND

1 Central Industrial Security Force rep. by its Director General
13th CGO's Complex, CISF Hakimpet, Hyderabad.
2 The Director, National Industrial Security Academy, CISF, Hakimpet, Hyderabad.
3 The Commandant/Administration National Industrial Security Academy
CISF, Hakimpet, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 3rd respondent in transferring the petitioner to NHPCL Subansiri, Assam vide his Inter Office Note No.E-38014/1/2003/Admn-I/3243, dated 6.12.2004 as illegal, arbitrary and violative of rules in force and also violative of articles 14 and 21 of the Constitution of India and to set aside the same so far as the Petitioner is concerned and consequently direct the respondents either to continue the petitioner in the present place of work or to consider posting him at the optional places given by him.

Counsel for the Petitioner: MR.V.AJAYAKUMAR

Counsel for the Respondents: MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.22618 OF 2004

ORDER:

This writ petition is filed challenging the action of the third respondent in transferring the petitioner to NHPCL, Subansiri of Assam State vide office note No.E-38014/1/2003/Admn-I/3243, dated 6.12.2004.

The grievance of the petitioner is that though he opted for three places he was not given the choice of his posting and therefore, the transfer order without considering his options, is illegal. The learned counsel for the petitioner contended that the petitioner is entitle for the home zone for his last tenure of service, as per circular 18/04, dated 20.11.2004.

On the other hand, the learned counsel for the respondents contended that the petitioner has not served the first three tenures outside the home zone and the impugned order is passed considering all the aspects and that the posting at home zone is subject to availability of vacancies and as there are no vacancies at the places where the petitioner opted for transfer, the petitioner has been transferred as such the impugned transfer order does not suffer from any legal infirmities, so as to call interference by this Court.

It is well settled that the transfer is not only an incidence of service, but also one of the service conditions of the employment. N o *mala fides* are attributed to the respondent, who affected the transfer. The only grievance of the petitioner is that when he opted for three places, the same has not been considered by the respondents. Even as per the circular, subject to availability of vacancies the employee is entitle for the home zone in his last tenure. At the same time, for the

three tenures the petitioner has not worked outside his home zone. Therefore, the transfer order does not suffer from any incurable infirmities or contrary to the policy laid down by the respondents or the service conditions of the petitioner and therefore, the writ petition is devoid of merits.

However, it is brought to the notice of this Court by the learned counsel for the petitioner that a representation is pending consideration by the respondents in this regard. Therefore, the respondents are directed to take appropriate decision on the representation, if any, pending before them, in accordance with the rules and also policy in respect of transfers, within a period of ten days from the date of receipt of a copy of this Order.

The writ petition is disposed of with the said observation. No costs.

09.12.2004.

Note:

Issue c.c. by Monday (i.e.,13.12.2004)

B/o.

mdaa.

Copy to:

1 The Director General,
Central Industrial Security Force,13th CGO's Complex, CISF Hakimpet, Hyderabad.
2 The Director, National Industrial Security Academy, CISF, Hakimpet, Hyderabad.
3 The Commandant/Administration National Industrial Security Academy
CISF, Hakimpet, Hyderabad.

4. Two C.D.copies.